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19 *X Corp.*

20 **UNITED STATES DISTRICT COURT**

21 **NORTHERN DISTRICT OF CALIFORNIA**

22 X CORP., a Nevada corporation,

23 Case No. 3:23-cv-03698-WHA

24 Plaintiff,  
25 vs.

26 BRIGHT DATA LTD., an Israeli  
27 corporation,

28 **DECLARATION OF STEFAN  
BERTHELSEN IN SUPPORT OF  
PLAINTIFF'S ADMINISTRATIVE  
MOTION TO FILE UNDER SEAL**

29 Defendant.

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1 I, Stefan Berthelsen, declare and state as follows:

2 1. I am an attorney licensed to practice in the State of New York and am admitted to  
 3 practice before this Court. I am an associate at Quinn Emanuel Urquhart & Sullivan LLP representing  
 4 Plaintiff X Corp. (“Plaintiff” or “X”) in this matter. I have personal knowledge of the matters set  
 5 forth in this Declaration, and if called as a witness I would testify competently to those matters.

6 2. I make this declaration in support of Plaintiff’s Administrative Motion to File Under  
 7 Seal (“Administrative Motion”). If called as a witness, I could and would testify competently to the  
 8 information contained herein.

9 3. I understand that requests for sealing in the context of dispositive motions are analyzed  
 10 under the “compelling reasons” standard. *Kamakana v. City & Cnty. of Honolulu*, 447 F.3d 1172,  
 11 1178 (9th Cir. 2006). Material should be sealed under the heightened “compelling reasons” standard  
 12 to prevent “the use of records to gratify private spite, promote public scandal, circulate libelous  
 13 statements, or release trade secrets” (*id.*), as well as to prevent court records from becoming “sources  
 14 of business information that might harm a litigant’s competitive standing,” *Nixon v. Warner*  
 15 *Commc’ns, Inc.*, 435 U.S. 589, 598 (1978).

16 4. I understand that requests for sealing in the context of non-dispositive motions are  
 17 analyzed under the “good cause” standard of the Federal Rule of Civil Procedure 26(c). *Kamakana*,  
 18 447 F.3d at 1180 (quoting *Foltz v. State Farm Mutual Auto Insurance Co.*, 331 F.3d 1122, 1135, 1138  
 19 (9th Cir. 2003)). Federal Rule of Civil Procedure 26(c) provides in relevant part that “[t]he court  
 20 may, for good cause, issue an order to protect a party or person from annoyance, embarrassment,  
 21 oppression, or undue burden or expense, including one or more of the following: (A) forbidding the  
 22 disclosure . . . ; . . . (G) requiring that a trade secret or other confidential research, development, or  
 23 commercial information not be revealed . . . .” Fed. R. Civ. P. 26(c)(1) (emphases added).

24 5. I understand Plaintiff requests to seal portions of its Motion for Leave to Amend  
 25 Complaint (the “Motion”) and Exhibits A (Proposed Second Amended Complaint) and B (Redline  
 26 between First Amended Complaint and Proposed Second Amended Complaint) identified in the chart  
 27 below:

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1 2 3 4 5 6 7 Document	Portion Sought to be Sealed
Plaintiff's Motion for Leave to Amend Complaint	Portions highlighted in blue
Exhibit A (Proposed Second Amended Complaint)	Portions highlighted in blue
Exhibit B (Redline between First Amended Complaint and Proposed Second Amended Complaint)	Portions highlighted in blue

8. The above-identified portions should be sealed because they contain X's sensitive  
 9 business and commercial information, including the details of the design of Plaintiff's microservices  
 10 architecture, internal statistics related provisioning it servers, inauthentic or anomalous web traffic  
 11 statistics to those servers, the effect of this web traffic on Plaintiff's services, the effect this inauthentic  
 12 or anomalous web traffic has on Plaintiff's services, and the costs related with maintaining these  
 13 systems. I understand that X considers and treats this information as confidential and does not  
 14 disclose this information publicly. I understand the public disclosure of this information would harm  
 15 the competitive standing that X has earned through years of innovation and dedication and create a  
 16 risk of injury. This risk of injury is two-fold. First, bad actors could use this information to further  
 17 degrade X's systems, raise X's costs, and/or evade X's safety and privacy controls. Second, it would  
 18 provide X's competitors insight into X's business operations and technical details that X does not  
 19 have similar access to about its competitors. I understand that, if X's competitors gain access to this  
 20 information, it will allow them to gain a competitive advantage in the market place, including by  
 21 releasing same or similar products and to compete with X with an unfair advantage.

22. Accordingly, if information identified in the chart above were made public, X's  
 23 competitive standing would be harmed.

1 I declare under penalty of perjury under the laws of the United States of America that to the  
2 best of my knowledge the foregoing is true and correct.

3 Executed on June 6, 2024 in Chattanooga, Tennessee.

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5 By: /s/ Stefan Berthelsen  
6 Stefan Berthelsen

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